

STOCKTON POLICE DEPARTMENT

GENERAL ORDER

MENTALLY ILL
SUBJECT

DATE: June 22, 2015

NO: D-11

FROM CHIEF ERIC JONES

TO: ALL PERSONNEL

INDEX: Mentally Ill
Handling the Mentally Ill

I. POLICY

Sworn personnel will take into custody persons falling within the provisions of Welfare and Institutions Code (W&I) Section 5150.

II. LAW

- A. State law determines that the San Joaquin county Mental Health Service is responsible for care of the mentally ill.
- B. Section 5150 W&I states in part:
 - 1. When any person, as a result of mental disorder, is a danger to others, or to himself or herself, or gravely disabled, a peace officer, member of the attending staff, as defined by regulation, of an evaluations facility designated by county, designated members of a mobile crisis team provided by Section 5651.7 W&I, or other professional persons designated by the county may, upon probable cause, take, or cause to be taken, the person into custody and place him/her in a facility designated by the county and approved by the State Department of Mental Health as a facility of 72 hour treatment and evaluation.
- C. Section 5150.1 W&I states:
 - 1. No peace officer seeking to transport, or having transported a person to a designated facility for assessment under Section 5150 W&I shall be instructed by mental health personnel to take or keep the person at a jail solely because the unavailability of an acute bed, nor shall the peace officer be forbidden to transport the person directly to the facility. No mental health employee from any agency, state, city, or private agency providing Short-Doyle psychiatric emergency service shall interfere with a peace officer performing duties under Section 5150 W&I by preventing the peace officer from entering designated facilities with the person to be assessed, nor shall any employee of such an agency require the peace officer to remove the person without assessment as a condition of allowing the peace officer to depart. "Peace Officer" for the purpose of this section also means a jailer seeking to transport or who are transporting a person in custody to a designated facility for assessment consistent with Section 4011.6 or 1011.9 of the Penal Code and Section 5150 W&I.
- D. Section 5150.2 W&I states:
 - 1. In each county whenever a peace officer has transported a person to a designated facility for assessment under Section 5150 W&I, that officer shall be detained no longer than the time necessary to complete documentation of the factual basis of the detention and a safe and orderly transfer of physical custody of the person. The documentation shall include detailed information regarding the factual circumstances and observations constituting probable cause for the peace officer to believe that the individual required psychiatric evaluation under the standards of Section 5150 W&I. Each county shall establish disposition procedures and guidelines with local law enforcement agencies as necessary to relate to persons not admitted for evaluation and treatment and who decline alternative mental health services and to relate the safe and orderly transfer of physical custody of persons under Section 5150 W&I, including those who have a criminal detention pending.

III. PROCEDURE

A. All Cases of Mental Illness:

1. Officers will take into custody persons, as a result of mental disorder, that are a danger to others, to themselves, or gravely disabled.
2. Section 5157 W&I requires that each person, when first detained for psychiatric evaluation, be given certain specific information orally, and a record be kept of the advisement by the evaluating facility.
 - a. All detentions that fall within the guidelines described in Section 5150 W&I shall include the completion of the Application for 72-hour Detention for Evaluation and Treatment Form (refer to attachments). This form will summarize the reason for the contact, transport/arrest, and will minimize the amount of time the police officer must accompany the subject once they arrive at County Mental Health. By completing this form, it will ensure that the subject is detained at the facility until examined by a psychiatrist. An arrest report will be completed ensuring that the subject is entered into RMS and a record is kept on file.
 - b. The Application for 72-hour Detention for Evaluation and Treatment Form includes a "detainment advisement" located at the top right corner. This advisement must be read to the detainee prior to the arrest or transportation of the subject if he/she falls within the guidelines of Section 5150 W&I. If the officer is not able to complete the advisement or the subject does not understand the advisement, the officer must check the "advisement incomplete" box and indicate the reason for not completing the advisement on the first line of the form.
 - c. This form includes an area for officers to summarize the detention and state the probable cause for the arrest or transportation. The officer shall complete the Application for 72-hour Detention for Evaluation and Treatment Form if the person being transported or detained falls within the following guidelines (definitions are included on the back of the form):
 - (1) A danger to himself/herself.
 - (2) A danger to others.
 - (3) Gravely disabled adult; or
 - (4) Gravely disable minor.
 - d. Upon arriving at County Mental Health, officers will submit the white and yellow copy of the form to the on-site crises worker. The pink copy shall be submitted to the Records Section as an attachment to the Arrest Report.
3. Prior to transportation, all mentally ill persons will be thoroughly searched by the arresting officer and the transporting officer, if not the same officer.
5. Officers must bear in mind that a mentally ill person can cause an officer more problems and should be handcuffed accordingly.
6. When transporting a mentally ill person, the officer should consider:
 - a. A two officer unit since a mentally ill person may be resentful of a patrol wagon.
 - b. Patrol wagon if the person is unruly or hard to manage.
 - c. Ambulance if the person is incapacitated.
7. When available, a female officer should transport females to the appropriate destination.
8. Occasionally, an on scene psychiatric social worker will need police assistance for transportation for a commitment.
 - a. Such calls will be handled by patrol officers.

B. Firearms

Section 8102 of the Welfare and Institutions Code requires that whenever a person who has been detained or apprehended for examination of his or her mental condition, is found to own, have in his or her possession or under his or her control, any firearm whatsoever or any other deadly weapon, the firearm or other deadly weapon shall be confiscated by any law enforcement agency or peace officer, who shall retain custody of the firearm or other deadly weapon. The officer shall complete the Receipt and Notice of Rights for Confiscated Firearms and Other Deadly Weapons which includes this section:

Mental Health Incidents – Notice of Rights

A report of the details surrounding the confiscation of these items may be given to the City Attorneys Office. That office may file a petition in the County Superior Court within 30 days of the above date, alleging that the return of these items would be likely to result in endangering you or others. If the City Attorneys Office does not file a petition, the items must be returned to you by the law enforcement agency. The return of any firearm is subject to a determination by the Department of Justice stating that you are eligible to possess firearms and payment of all applicable storage fees. If the City Attorney's Office does file such a petition, a copy of the City Attorneys Office petition will be mailed to you at the address you provided to the law enforcement agency. If you wish to have a hearing you must notify the clerk of the County Superior Court within 30 days of the filing date of the City Attorney's Office petition. The clerk will then set a date and time for such hearing and a notification will be mailed to you. If you are detained under Welfare and Institutions Code 5150 and are subsequently involuntarily admitted to a mental health facility, you are prohibited from owning, possessing and controlling firearms for a period of five (5) years in California. If you currently own any firearms, you must contact the nearest law enforcement agency to surrender those firearms.

When a person is being placed in a mental health facility on a 72 hour hold for treatment and evaluation in addition to completing The Application for 72-hour Detention for Evaluation and Treatment Form and completing a W&I 5150 arrest report; the officer shall confiscate any firearm or other deadly weapon in plain view. The officer shall ask the person if they own or possess any firearms and deadly weapons and check for registered firearms. If there are firearms or other deadly weapons to be confiscated the officer will conduct a consensual or other lawful search. If consent is denied and there is no other lawful reason to search the scene or residence, contact Case Review for follow up with a warrant to confiscate the firearms or other deadly weapons. All W&I 5150 reports should be routed to Case Review and the Mental Health Liaison Officers for follow up of any seizure or lack of seizure of firearms.

C. Court Orders:

1. Persons will be taken into custody when a court order exists.
2. The court order allows the following persons to take a subject into custody:
 - a. Peace officers.
 - b. Mental health counselors.
 - c. Court appointed officials.

D. Inpatient Walk Aways:

1. Any patient that walks away or escapes from Mental Health and becomes involved in a criminal act shall be booked at the San Joaquin County Jail when apprehended.
2. A walk away or escapee may be returned to Mental Health if he/she has not been involved in a criminal act.

E. Persons Mentally Ill and Intoxicated:

1. Persons who are mentally ill and intoxicated will be booked into the San Joaquin County Jail.

- a. The arresting officer shall inform the transporting officer (if it's a different officer) and jail personnel that the person being booked is mentally ill under Section 5150 W&I.

F. Private Hospitals:

- 1. Occasionally, private hospitals will ask for assistance to handle mentally ill patients who must be taken to Mental Health.
 - a. Officers shall obtain the names of the doctors and nurses in attendance and list their statements as to what the patient's actions have been.
 - b. Complete the Application for 72-hour Detention for Evaluation and Treatment Form.
 - c. Complete an Arrest Report.
 - d. If the person is suffering from a medical condition they should be transported by ambulance. If no medical condition exists, the person may be transported in a police vehicle.

G. Voluntary Commitment:

- 1. Occasionally, citizens will ask officers for transportation to Mental Health. In these instances officers shall:
 - a. Determine the reason for transportation.
 - (1) Does the subject meets any of the elements of 5150 W&I?
 - (2) Does the subject just want transportation to talk with a mental health counselor?
 - (a) In this type of situation, the officer may transport the subject to Mental Health. No Application for 72-hour Detentions for Evaluation and Treatment Form or Arrest Report is needed. A notation shall be made in the officer's Unit History of the action taken.
 - b. If the subject meets any of the elements of 5150 W&I the officer shall complete the Application for 72-hours Detention for Evaluation and Treatment Form.
 - c. The officer shall transport the subject to Mental Health.
 - d. The officer shall complete an Arrest Report.

**APPLICATION FOR 72-HOUR DETENTION
FOR EVALUATION AND TREATMENT**

*Confidential Client/Patient Information
See California W & I Code Section 5328*

1H 902 (5/99)

W & I Code, Section 5157, requires that each person when first detained for psychiatric evaluation be given certain specific information orally, and a record be kept of the advisement by the evaluating facility.

☐ **Advisement Complete** ☐ **Advisement Incomplete**

Good Cause for Incomplete Advisement

Advisement Completed By

My name is _____
I am a (Peace Officer, etc.) with (Name of Agency). You are not under criminal arrest, but I am taking you for examination by mental health professionals at (Name of Facility).

You will be told your rights by the mental health staff.

If taken into custody at his or her residence, the person shall also be told the following information in substantially the following form:

You may bring a few personal items with you which I will have to approve. You can make a phone call and/or leave a note to tell your friends and/or family where you have been taken.

Position

Date

To San Joaquin County Mental Health

Application is hereby made for the admission of _____
residing at _____, California, for 72-hour treatment and evaluation pursuant to Section 5150, (adult) et seq. or Section 5585 et seq. (minor), of the Welfare and Institutions Code. If a minor, to the best of my knowledge, the legally responsible party appears to be/is: (Circle one) Parent; Legal Guardian; Juvenile Court as a WIC 300; Juvenile Court as a WIC 601/602; Conservator. If known, provide names, address and telephone number: _____

The above person's condition was called to my attention under the following circumstances: (See reverse side for definitions)

The following information has been established: (Please give sufficiently detailed information to support the belief that the person for whom evaluation and treatment is sought is in fact a danger to others, a danger to himself/herself and/or gravely disabled.)

Based upon the above information it appears that there is probable cause to believe that said person is, as a result of mental disorder:

☐ **A danger to himself/herself.** ☐ **A danger to others.** ☐ **Gravely disabled adult.** ☐ **Gravely disabled minor.**

Signature title and badge number of peace officer, member of attending staff of evaluation facility or person designated by county.

Date

Phone

Time

Name of Law Enforcement Agency or Evaluation Facility/Person

Stockton Police Department

Address of Law Enforcement Agency or Evaluation Facility/Person

Stockton Police Department
22 E. Market Street
Stockton, CA 95202

☐ Weapon was confiscated and detained person notified of procedure for return of weapon pursuant to W & I Code Section 8102.
(officer/unit & phone #) _____

NOTIFICATIONS TO BE PROVIDED TO LAW ENFORCEMENT AGENCY

NOTIFICATION OF PERSON'S RELEASE FROM AN EVALUATION AND TREATMENT FACILITY IS REQUESTED BY THE REFERRING PEACE OFFICER BECAUSE:

☐ Person has been referred under circumstances in which criminal charges might be filed pursuant to W & I Code Sections 5152.1 and 5152.2.
Notify (officer/unit & phone #) _____

☐ Weapon was confiscated pursuant to W & I Code Section 8102.
Notify (officer/unit & phone #) _____

SEE REVERSE SIDE FOR INSTRUCTIONS

WHITE: CHART / YELLOW: MENTAL HEALTH CRISIS SERVICE DIRECTOR / PINK: REFERRING AGENCY

DEFINITIONS

GRAVELY DISABLED

"**Gravely Disabled**" means a condition in which a person, as a result of a mental disorder, is unable to provide for his or her basic personal needs for food, clothing and shelter. SECTION 5008(h) W & I CODE

"**Gravely Disabled Minor**" means a minor who, as a result of a mental disorder, is unable to use the elements of life which are essential to health, safety, and development, including food, clothing, and shelter, even though provided to the minor by others. SECTION 5585.25 W & I CODE

Mental retardation, epilepsy, or other developmental disabilities, alcoholism, other drug abuse, or repeated antisocial behavior do not, by themselves, constitute a mental disorder.

PEACE OFFICER

"**Peace Officer**" means a duly sworn peace officer as that term is defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code who has completed the basic training course established by the Commission on Peace Officer Standards and Training, or any parole officer or probation officer specified in Section 830.5 of the Penal Code when acting in relation to cases for which he or she has a legally mandated responsibility. SECTION 5008 (i) W & I CODE

INSTRUCTIONS FOR SECTIONS 5152.1, 5152.2, and 5585 WIC

Section 5152.1 WIC

The professional person in charge of the facility providing 72-hour evaluation and treatment, or his designee, shall notify the county mental health director or his designee and the peace officer who makes the written application pursuant to Section 5150 if both of the following conditions apply:

(a) The peace officer requests such notification at the time he makes the application and he certifies in writing that the person has been referred to the facility under circumstances in which a criminal charge might be filed.

(b) The person admitted pursuant to such application is not detained by the facility or is detained for a period less than the full period of allowable detention in the 72-hour facility.

Section 5152.2 WIC

Each law enforcement agency within a county shall arrange with the county mental health director a method for giving prompt notification to peace officers pursuant to Section 5152.1.

Section 5585 et seq. WIC

WIC Section 300 is a minor who is under the jurisdiction of the Juvenile Court because of abuse (physical or sexual), neglect or exploitation.

WIC Section 601 is a minor who is adjudged a ward of the Juvenile Court because of being out of parental control.

WIC Section 602 is a minor who is adjudged a ward of the Juvenile Court because of crimes committed.

Section 8102 WIC (EXCERPTS FROM)

Whenever a person who has been detained or apprehended for examination of his or her mental condition or who is a person described in Section 8100 or 8103, is found to own, have in his or her possession or under his or her control, any firearm whatsoever, or any other deadly weapon, the firearm or other deadly weapon shall be confiscated by any law enforcement agency or peace officer, who shall retain custody of the firearm or other deadly weapon. . . .

Where the person is released without judicial commitment, the professional person in charge of the facility, or his or her designee, shall notify the person of the procedure for the return of any firearm or other deadly weapon which may have been confiscated.

Upon confiscation of any firearm or other deadly weapon from a person who has been detained or apprehended for examination of his or her mental condition, the peace officer or law enforcement agency shall notify the person of the procedure for the return of any firearm or other deadly weapon which has been confiscated.

Health facility personnel shall notify the confiscating law enforcement agency upon release of the detained person, and shall make a notation to the effect that the facility provided the required notice to the person regarding the procedure to obtain return of any confiscated firearm.